

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

JERRY LEE KEY,

Movant,

v.

Case No. 2:17-cv-00556

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

The movant, Jerry Lee Key, proceeding pro se, has filed his "Motion for Certificate of Innocence Pursuant to 28 U.S.C. § 2513," on January 12, 2017. This matter was referred to United States Magistrate Judge Dwane L. Tinsley, who has since filed the Proposed Findings and Recommendation on August 15, 2017.

After a thorough consideration of movant's claims, and as the magistrate judge has aptly found, movant is not entitled to a certificate of innocence because his federal conviction for being a felon in possession of a firearm has not been reversed or set aside on the grounds that he is not guilty of the offense, and he has not been pardoned. In reaching that

conclusion, the magistrate judge appropriately found that movant's constitutional challenges to § 2513 are without merit. The magistrate judge accordingly recommends that the motion for certificate of innocence be denied.

The movant has filed on August 30, 2017, objections to the Proposed Findings and Recommendation. The objections are simply a restatement of that which formed the basis for movant's motion for certificate of innocence, all of which has been fully and correctly dealt with in the Proposed Findings and Recommendation.

It is accordingly ORDERED that the magistrate judge's Proposed Findings and Recommendation be, and hereby is, adopted by the court.

It is further ORDERED that the Motion for Certificate of Innocence Pursuant to 28 U.S.C. § 2513, be, and it hereby is, denied.

The Clerk is directed to forward copies of this written opinion and order to the movant, all counsel of record and the United States Magistrate Judge.

DATED: September 29, 2017


John T. Copenhaver, Jr.

2 United States District Judge